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**HF 373** – Penalties for Absconding – Sexual Offenders (LSB1338HV)  
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Fiscal Note Version – New  
Requested by Representative Chip Baltimore

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### **Description**

**House File 373** enhances the penalty for escape from custody for individuals detained pending civil commitment proceedings for determination of sexually violent predator status, or patients that escape from the Civil Commitment Unit for Sexual Offenders (CCUSO) at Cherokee. The penalty is increased from a simple misdemeanor to a serious misdemeanor.

### **Background**

#### **Correctional and Fiscal Information**

- The Department of Corrections (**DOC**) reports there were 11 individuals held at Newton pending civil commitment proceedings as a sexually violent predator on February 12, 2015. These individuals, referred to as Safekeepers, have served their sentence for any criminal conviction and are held in separate housing (farmhouse) at the Newton Correctional Facility.
- The Department of Human Services (**DHS**) reports there were 99 individuals living at the CCUSO at Cherokee on February 9, 2015. The last escape was in August 2014.
- Current law provides that an escape or attempt to escape from custody under Iowa Code section **229A.5B** is a criminal offense punishable as a simple misdemeanor. The penalty is a sentence of a maximum of 30 days in county jail or a fine of at least \$65 but no more than \$625, or both.
- The Bill enhances the penalty for escaping or attempting to escape from custody under Iowa Code section **229A.5B** to a criminal offense punishable as a serious misdemeanor. The penalty is a sentence of no more than one year of confinement and a fine of at least \$315 but no more than \$1,875.
- Civil commitment patients and Safekeepers convicted of the crime of escape or attempting to escape serve the sentence in the county jail. They are then returned to the CCUSO Unit at Cherokee or the farmhouse at Newton. The civil commitment is suspended while they serve the criminal sentence. Escapes from custody are rare.
- The average cost per case for the Judicial Branch is \$30 for a simple misdemeanor and \$213 for a serious misdemeanor. These costs do not include bench or jury trial costs.
- The cost for indigent defense is \$300 for a simple misdemeanor case and \$600 for a serious misdemeanor case.
- The marginal cost for state prisons is \$18.92 per day. The average length of stay in prison before release is 6.9 months for an offender convicted of a serious misdemeanor.
- See the ***Legislative Guide, Civil Commitment of Sexually Violent Predators*** published by the Legislative Services Agency (LSA) in October 2012 for information regarding the characteristics of individuals civilly committed to the CCUSO, eligibility criteria, overview of the legal process, criminal offenses created while in custody, and constitutional issues.

- See the DHS webpage, [Civil Commitment Unit for Sexual Offenders](#), for a brief description of the Program.
- Refer to the LSA memo addressed to the General Assembly, [Correctional Impact Statements](#), dated January 30, 2015, for information related to criminal justice system costs for nonperson crimes.

### Minority Data Information

The table below shows the current racial distribution of CCUSO patients and Safekeepers, per the DHS and the DOC. All of the patients and Safekeepers are men.

**FY 2015 Racial Characteristics of CCUSO Patients and Safekeepers**

Location	White	Black	Hispanic	Native American	Other
DHS - CCUSO	76.0%	19.0%	2.0%	2.0%	1.0%
DHS - Transitional Release	71.0%	22.0%	7.0%	0.0%	0.0%
DOC	81.8%	18.2%	0.0%	0.0%	0.0%

The patient that escaped in August 2014 was White. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2015, for information related to minorities in the criminal justice system.

### Assumptions

#### Correctional and Fiscal Information

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice system policies and practices will not change over the projection period for the crime of escape while in custody under the provisions of Iowa Code chapter [229A](#).
- The defendants will most likely be indigent. No financial penalties will be collected under this Bill.
- Offenders convicted under the provisions of this Bill will serve the sentence in either county jail or the State prison system. They will then be returned to the CCUSO at Cherokee or the farmhouse at the Newton Correctional Facility. They will not receive parole.
- Marginal costs for county jails cannot be determined due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15 per day.
- The average length of stay in a county jail for this offense cannot be determined due to a lack of data. The sentence is subject to earned time reduction. The actual amount of time served in the county jail may be similar to the amount of time served in the State prison system.
- Convictions for escape under the provisions of this Bill will be similar to current law.

**Minority Data Information:** The impact on minorities will remain consistent with current data.

### Summary of Impacts

#### Correctional Impact

The correctional impact will be minimal. Convictions for escape from custody while under the provisions of Iowa Code chapter [229A](#) are rare.

## Minority Impact

The minority impact is minimal. Few convictions are anticipated under the provisions of this Bill.

## Fiscal Impact

The fiscal impact is expected to be minimal because few criminal cases are anticipated under the provisions of this Bill. The maximum state costs for one conviction may be about \$4,500. This amount reflects the State's cost difference between a simple and a serious misdemeanor for one offender if the offender is sentenced to the State prison system. This estimated impact to the State General Fund includes operating costs incurred in the Judicial Branch, Indigent Defense Fund, and the DOC as shown in the table below.

### Estimated General Fund Impact By Function for One Conviction

Judicial Branch	\$	185
Indigent Defense		300
State Prison		4,000
	\$	<u>4,485</u>

There will be costs to local government for the apprehension and prosecution of the escapee, and potential costs for the operating budgets of county jails. Those costs are anticipated to be minimal because these escapes are rare.

## Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Department of Human Services  
Office of the State Court Administrator  
Office of the State Public Defender

/s/ Holly M. Lyons

February 25, 2015

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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